

AMENDED IN SENATE AUGUST 17, 2009

AMENDED IN SENATE JUNE 29, 2009

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY MARCH 31, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 756**

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**Introduced by Assembly Members Eng and Lieu**

February 26, 2009

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An act to add Section 10111.5 to the Public Contract Code, relating to public contracts.

### LEGISLATIVE COUNSEL'S DIGEST

AB 756, as amended, Eng. Public contracts: information: Internet Web site.

Existing law governing contracting between state agencies and private contractors sets forth requirements for the procurement of supplies, materials, equipment, and services by state agencies and sets forth the various responsibilities of the Department of General Services and other state agencies in overseeing and implementing state contracting procedures and policies.

This bill would require a state agency, except as specified, to provide a link to a centrally located and accessible state-run Internet Web site that includes a list of the personal services and consulting services contracts, as defined, entered into by the agency. This bill would require the listings on the state's Internet Web site to include specified information, *and would require all new contracts to be initially posted within 15 working days of being signed by all parties.*

This bill would require contractors to electronically provide specified information to assist state agencies in the reporting of information for the listings of personal services and consulting services contracts. ~~This bill would make contractors who fail to provide this information ineligible for any additional personal services or consulting services contracts, and would cease payment for any ongoing contracts, until the information is provided.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 10111.5 is added to the Public Contract
- 2 Code, to read:
- 3 10111.5. (a) Each state agency shall provide a link to a
- 4 centrally located and accessible state-run Internet Web site that
- 5 includes a list of the personal services and consulting services
- 6 contracts that it entered into during the previous fiscal year. All
- 7 listings shall be available in searchable form on the state's Internet
- 8 Web site *and without charge to the public*. The listings shall be
- 9 organized to ensure transparency. *All new contracts shall be*
- 10 *initially posted within 15 working days of being signed by all*
- 11 *parties, and shall be updated as necessary to include any*
- 12 *information required by this section that is not available at the*
- 13 *time of posting*. The listings shall include, but is not limited to, the
- 14 following information:
- 15 (1) The name and *license, registration, certification, or*
- 16 *identification number* of each contractor, as well as whether the
- 17 contractor is a for profit, nonprofit, small business, micro-business,
- 18 disabled veteran, or nonprofit veteran's service agency.
- 19 (2) The statutory basis for the authorization of each contract,
- 20 including, if relevant, any applicable condition permitting personal
- 21 services contracts provided by Section 19130 of the Government
- 22 Code.
- 23 (3) The duration of each contract.
- 24 (4) The number of amendments to each contract and the number
- 25 of renewals of each contract, where applicable.
- 26 (5) Reason why low bid was not accepted.
- 27 (6) Reason for noncompetitive bidding.

1 (7) (A) The total amount of the contract ~~price~~ *allocation* over  
2 the duration of the contract, including all known amendments to  
3 the contract, the total amount paid by the state agency during the  
4 most recently completed fiscal year, and the number, cost, bill  
5 rate, and staffing levels associated with each type of contract  
6 employee retained during the most recently completed fiscal year.  
7 In time and material contracts, staffing levels shall also be  
8 described or accounted for in personnel years or full-time  
9 equivalent terms. In deliverables based contracts, average staffing  
10 levels and bill rates shall be available and reportable 90 days after  
11 the completion of the contract or after one year, whichever occurs  
12 first.

13 (B) *This paragraph shall become operative on January 1, 2011.*

14 (8) ~~Costs and relevant staffing information—Contract listings~~  
15 ~~shall be organized and reported using both broad and detailed~~  
16 ~~contract categories that are based on in one of the following~~  
17 ~~manners:~~

18 (A) *Using the maximum level of specificity available through*  
19 *the United Nations Standard Products and Services Code*  
20 *(UNSPSC).*

21 (B) *Using the following broad category names:*

22 (i) *Architectural, engineering, and environmental services and*  
23 *consulting services.*

24 (ii) *Information technology personal services and consulting*  
25 *services.*

26 (iii) *Other personal services and consulting services.*

27 (iv) *Information technology goods contracts.*

28 (v) *Non-information technology goods contracts.*

29 (vi) *Public works contracts.*

30 (b) For purposes of this section, the following definitions apply:

31 (1) “Consulting services contracts” has the same meaning as  
32 defined in Section 10335.5.

33 (2) “Personal services contracts” means any contract, requisition,  
34 or purchase order, ~~excluding public works contracts~~, under which  
35 labor or personal services is a significant, separately identifiable  
36 element.

37 (3) “Time and material contract” means a contract under which  
38 the contractor agrees to furnish and install materials or fixtures,  
39 or both, and which sets forth separately a charge for the materials  
40 or fixtures and a charge for their installation or fabrication.

1 (4) “Deliverables” means any contract, requisition, or purchasing  
2 order, excluding public works contracts ~~which~~ *that* does not specify  
3 actual cost of direct labor at specified hourly rates or actual cost  
4 of materials. These contracts are for products or services that must  
5 be completed and delivered as final products under the terms of  
6 an agreement or contract.

7 (c) ~~(1)~~ To facilitate state agency reporting of information for  
8 the listings, contractors shall electronically provide all of the  
9 staffing and cost information specified in paragraph ~~(5)~~ (7) of  
10 subdivision (a) to the agencies ~~at the end of each fiscal, which shall~~  
11 *be reportable 90 days after the completion of the contract or after*  
12 *one year for each and every personal services and consulting*  
13 *services contract operative during that fiscal year.*

14 ~~(2) Contractors who fail to provide the required information~~  
15 ~~shall be subject to both of the following until the information is~~  
16 ~~provided:~~

17 ~~(A) Payments for any ongoing contracts shall cease.~~

18 ~~(B) The contractor shall be ineligible for any additional personal~~  
19 ~~services or consulting services contracts.~~

20 (d) The information required by subdivision (a) shall be made  
21 available to the public in an electronic format that is searchable  
22 and easy to use in order to promote and support government  
23 transparency.

24 (e) This section shall not apply to information resulting from  
25 contracts for confidential expert consulting services that constitutes  
26 an attorney work product ~~or~~, is protected by the attorney-client  
27 privilege, *or results from a court order.*

28 (f) State agencies that are not required to report to the State  
29 Contract and Procurement Registration System (SCPRS) shall be  
30 exempt from the requirements of this ~~section, except as required~~  
31 ~~under Section 6254 of the Government Code.~~ *section.*

32 (h) *This section does not in any manner affect the public*  
33 *disclosure requirements of the California Public Records Act*  
34 *(Chapter 3.5 (commencing with Section 6250) of Division 7 of*  
35 *Title 1 of the Government Code).*